

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

L.T AND M.T. by their parent Jeffrey N. Thomas, JEFFREY N. THOMAS as parent of L.T and M.T.; T.L., B.L., R.L., A.L. by their parent Karen LeClair; KAREN LECLAIR as parent of T.L., B.L., R.L., A.L.; J.S. by his parent Danielle Schipano; DANIELLE SCHIPANO as parent of J.S.; B.P by his parent Andrea Penamora, ANDREA PENAMORA as parent of B.P.; E.W. by her parent Joseph Whitehead; and JOSEPH WHITEHEAD as parent of E.W.

Plaintiffs,

vs.

HOWARD A. ZUCKER, in his official capacity and in his individual capacity,

Defendant.

Civil Action No.: 21-cv-1034 (LEK/DJS)
Order to Show Cause

**ORDER TO SHOW CAUSE
with a request for a
TEMPORARY RESTRAINING ORDER**

The Court has considered the plaintiffs' verified complaint sworn to on September 20, 2021, their amended Complaint filed January 25, 2022, the affirmation of attorney Thomas Marcelle dated January 25, 2022 and all other proceedings and filings had herein. On the basis of these pleadings and papers, plaintiffs have sufficiently shown cause that the Court should dispense with the notice of motion requirement of Local Rule 7.1(b). Therefore, the Court is of the opinion that an order to show cause should be granted:

IT IS ORDERED that:

The defendant show cause before a term of this Court to be held at the Federal Courthouse, _____, New York on the _____ day of _____, 2022, at _____ o'clock in the _____ of that day, or as soon thereafter as counsel may be heard, why a preliminary injunction pursuant to Federal Rule of Civil Procedure 65(a) should not be issued enjoining defendant from enforcing that part of 10 NYCRR § 2.60 requiring primary and secondary students to wear masks until the Court hears and determines plaintiffs' motion for a preliminary injunction and why such other and further relief should not be granted to plaintiffs that to this Court may seem just and proper,

IT IS FURTHER ORDERED that:

Defendant shall file and serve answering papers on the plaintiffs' attorney on or before ____day of January 2022;

Plaintiffs may file and serve a reply memorandum not to exceed twenty pages on the defendants' attorney on or before ____day of February, 2022;

AND

IT IS FURTHER ORDERED that:

Given the decision by the New York State Supreme Court in *Demetriou v Bassett*, Supreme Court, Nassau County, Rademaker, J., index No. (January 25, 2022), and given that the Defendant Bassett was represented and had a full and fair opportunity to be heard in that case, the Court is of the opinion that a temporary restraining order pursuant to Federal Rule of Civil Procedure 65(b) should issue enjoining defendant from enforcing that part of 10 NYCRR § 2.60 requiring primary and secondary students to wear masks until the Court hears and determines plaintiffs' motion for a preliminary injunction.

So Ordered!

Dated: January __, 2022

Hon. Lawrence E. Kahn
United States District Judge